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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,884

05/25/2007

Gerhard Boegel

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6449

7590

05/13/2008

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WASHINGTON, DC 20005

EXAMINER

BRAINARD, TIMOTHY A

ART UNIT

PAPER NUMBER

3662

NOTIFICATION DATE

DELIVERY MODE

05/13/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/589,884	Applicant(s) BOEGEL ET AL.	
	Examiner TIMOTHY A. BRAINARD	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada (US 5351126) in view of Rickman (US 2005/0111301). Takada teaches (claim 1) a hand-held measurement device for measuring distances to the surface of an object including a lens system intended for modulated transmitted beams and for those beams of the transmitted beams which are reflected by the surface region, for electro-optical distance measurement (fig 1, item 10 and col 4, lines 13-53) and the first component is formed both for measuring short distances, in particular between a zero point of the housing and the surface region, for electro-optical distance measurement and means for automatic determination of a distance dependent on the measurement of

the first component, both for distance measurement and for fixing the zero point for electro-optical measurement, are provided (abs) and (claim 2) the means for automatic determination is optical (abs).

Takada does not teach a housing, the first component extended beyond the housing used a spacer for distance measurement, the first component extends a predetermined fixed length beyond the housing for electro-optical measurement of short distances, and in the predetermined extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing, registering the predetermined extended state of the first component is provided, the first component can be swiveled out or extended to the predetermined extended state a scale or is coordinated with the first component, the first component is formed of elastically deformable, in the form of a strip, the guide of the first component is formed in such a way that it is held in the extended position with frictional adhesion. The remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook. A scale is arranged on the first component, that side of the component that faces away from the housing embodies the zero point of the scale, the second zero point is a point on the distal end of the member or housing and the member is an elongated substantially rigid or flexible body.

Rickman teaches (claim 1 and 14) a housing (fig 2, item 20), the first component extended beyond the housing used a spacer for distance measurement (fig 1, item 3 and para 13), (claim 5) the first component extends a predetermined fixed length

beyond the housing for electro-optical measurement of short distances, and in the predetermined extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing (fig 1), (claim 6) registering the predetermined extended state of the first component is provided (, (claim 7) the first component can be swiveled out or extended to the predetermined extended state (claim 8) a scale is coordinated with the first component (fig 1 and para 13), (claim 9) the first component is formed of elastically deformable, in the form of a strip (fig 1), (claim 10) the guide of the first component is formed in such a way that it is held in the extended position with frictional adhesion (para 14), (claim 11) the remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook (fig 1, item 38), (claim 12) a scale is arranged on the first component, the zero point of the scale is embodied by that side of the component which faces away from the housing (fig 1, item 34),

It would have been obvious to modify Takada to include a housing, the first component extended beyond the housing used a spacer for distance measurement, the first component extends a predetermined fixed length beyond the housing for electro-optical measurement of short distances, and in the predetermined extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing, registering the predetermined extended state of the first component is provided, the first component can be swiveled out or extended to the predetermined extended state a scale or is

coordinated with the first component, the first component is formed of elastically deformable, in the form of a strip, the guide of the first component is formed in such a way that it is held in the extended position with frictional adhesion, the remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook, a scale is arranged on the first component, the zero point of the scale is embodied by that side of the component which faces away from the housing because each is one of multiple design choices with no new or unexpected result. It would have been obvious to modify Takada to include the second zero point is a point on the distal end of the member or housing because it is one of multiple design choices with no new or unexpected results. It is expected that the tape in the tape measure of Rickman is an elongated substantially rigid or flexible body.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada in view of Rickman as applied to claim 1 above, and further in view of Honda et al (US 2004/0051860). Honda teaches the device has at least one further component, optionally arranged orthogonally to the first component for measuring short distances, and an optical sensor for automatic determination of the short distance is coordinated with the further component. It would have been obvious to modify Takada in view of Rickman to include the device has at least one further component, optionally arranged orthogonally to the first component for measuring short distances, and an optical sensor for automatic determination of the short distance is coordinated with the further component because it would allow an operator to measure both dimensions of a room without moving the measurement apparatus.

Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada in view of Rickman as applied to claim 1 above, and further in view of Masreliez et al (US 5894678). Masreliez teaches a scale for measuring distances is arranged on the housing, the zero point of a scale is embodied by the measuring stop (col 4, lines 34-57). It would have been obvious to modify Takada in view of Rickman to include a scale for measuring distances is arranged on the housing; the zero point of a scale is embodied by the measuring stop because it is allow an operator to determine the distance from the back of the housing.

Response to Arguments

1. Applicant's arguments filed 3/5/2008 have been fully considered but they are not persuasive. Applicant argues:
2. 1) the art does not teach a first component which is connected to the housing and can be extended beyond the housing wherein the first component is formed both for measuring short distance and as a spacer for electro-optical distance measurement
3. Response: the tape measure of Rickman is used to measure short distances and would be a spacer when extended out for measurement
4. 2) the art does not teach a means for automatic determination of a distance from the surface region to a point located on an end of the first component, wherein the determination is based on an electro-optical distance measurement and the extension of the first component
5. Response: Takada teaches finding the difference to determine the height or depth of an object and modifying Takada use the tape measure in Rickman as one of

the distance measurement is merely a choice of what kind of distance measuring device is used.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY A. BRAINARD whose telephone number is (571) 272-2132. The examiner can normally be reached on Monday - Friday 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAB

/Thomas H. Tarcza/
Supervisory Patent Examiner, Art Unit 3662